

ORDINANCE NO. 09-39

ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA AMENDING CHAPTER 54 ENTITLED "LAW ENFORCEMENT", ARTICLE II. BURGLARY AND ROBBERY ALARMS, OF THE CODE OF ORDINANCES, AND IN PARTICULAR, REVISING HIALEAH CODE §§ 54-34, 54-37 AND 54-38 TO INCREASE THE THRESHOLD OF FALSE ALARMS SUBJECT TO PENALTY FROM THREE TO FOUR FALSE ALARMS ON AN ANNUAL BASIS AND MISCELLANEOUS REVISIONS; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR INCLUSION IN CODE; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the purpose and intent of this ordinance is for the health, safety and welfare, and proper administration of the City of Hialeah and its residents and business and property owners; and

WHEREAS, the specific intent of this ordinance is to increase the threshold for civil penalties from the third false alarm to the fourth false alarm with increased fines for subsequent fines.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

Section 1: Chapter 54 entitled "Law Enforcement", Article II. Burglary and Robbery Alarms, of the Code of Ordinances of the City of Hialeah, Florida is hereby amended to read as follows:

Chapter 54

LAW ENFORCEMENT

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**ARTICLE II. BURGLARY AND ROBBERY
ALARMS**

Sec. 54-31. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Alarm system means any assembly of equipment, mechanical or electrical, arranged to signal the occurrence of an illegal entry or other activity requiring urgent attention and to which the police department or fire department is expected to respond, excluding automobile alarm systems; medical alert systems; alarm systems connected to any municipal, county, state or federally controlled building or structure.

Alarm user means the person in control of any building, structure or facility or portion thereof wherein an alarm system is maintained.

Appeals board means the ~~city council~~ code enforcement board or special master or hearing officer, who shall act as an impartial arbitrator at hearings related to the enforcement of this article.

Automatic telephone dialing alarm system means the automatic dialing device or an automatic telephone dialing alarm system and includes any system which, upon being activated, automatically transmits by telephone or telephone line to the police department or fire department a recorded message or code signal indicating a need for emergency response; or a system which, upon activation, connects to an answering service whose function it is to transmit to the police department or fire department a need for emergency response.

False alarm means a signal from an alarm system that elicits a response by the police when no emergency, actual or threatened, criminal activity requiring immediate response exists; or that elicits a response by the fire department when no emergency exists. This definition includes signals activated by negligence, accident, mechanical failure, and electrical failure; signals activated intentionally in nonemergency situations; and signals for which the actual cause of activation is unknown. It is a rebuttable presumption that an alarm is false if personnel

responding from the police department or fire department do not discover any evidence of unauthorized entry, criminal activity, or other emergency after following normal police or fire department operating procedures respectively in investigating the incident. An alarm is not false if the alarm user proves that:

- (1) An individual activated the alarm based upon a reasonable belief that an emergency, actual or threatened criminal activity requiring immediate response, existed; or
- (2) The alarm system was activated by lightning or an electrical surge that caused physical damage to the system, as evidenced by the testimony of a licensed alarm system contractor who conducted an on-site inspection and personally observed the damage.

Sec. 54-33. Required and prohibited equipment.

(a) An alarm user shall not use an alarm system unless that alarm system is equipped with the following:

- (1) A backup power supply that will become effective if a power failure or outage occurs in the source of electricity from the utility company.
- (2) A device that automatically silences the alarm within 30 minutes after activation.

(b) it shall be unlawful for any alarm business or alarm user to sell, offer for sale, install, maintain, lease, operate or assist in the operation of an automatic telephone dialing alarm system over any telephone lines exclusively used by the public to directly request emergency service from the police department.

Sec. 54-34. False alarms prohibited.

No alarm user shall cause, allow or permit ~~his~~ the user's alarm system to give ~~three~~ four or more false alarms in any calendar year. This provision and its resulting penalties shall only apply to non-residential properties. For properties that have mixed uses, such as residential and

commercial, this section shall only apply to commercial uses within the property.

Sec. 54-35. Response to alarm; determination of validity; notification of response.

(a) *Response.* Whenever an alarm is activated in the city thereby requiring an emergency response to the location by the police department or fire department, and the police department or fire department does respond, a police officer or firefighter on the scene of the activated alarm system shall inspect the area protected by the system and shall determine whether the emergency response was, in fact, required as indicated by the alarm system or whether, in some way, the alarm system malfunctioned and thereby activated a false alarm. If the police officer or firefighter at the scene of the activated alarm system determines the alarm to be false, the police officer or firefighter shall make a report of the false alarm.

(b) *Notification.* It is the responsibility of each alarm user to monitor the occurrences of false alarms on user's premises. The police department or fire department shall notify the alarm user of each false alarm. Such notice shall be provided by posting a notice on the premises or by mailing notice to the alarm user by U.S. mail.

(c) *Enforcement.* Upon review of the false alarm reports by the police department or fire department and a discovery that a violation of this article has occurred, a notice of violation or citation shall be issued by a sworn member of the police department or fire marshal or designee. Citations shall be served by the same manner as citations issued pursuant to Chapter 22, Article III, of the Code.

Sec. 54-36. Appeals.

(a) Appeals shall be heard by the code enforcement board or the special master to determine the issue of whether the alarm system in question activated a false alarm, as determined by the police officer or firefighter at the scene of such activated alarm.

(b) Upon receipt of any citation for violation of this article from the city, the alarm user shall have 30 days to request an appeal, in writing, to the office of the police

chief or the fire chief, if the fire department issued the notice of violation or citation, who will sustain or dismiss the violation. If the alarm user is dissatisfied with this determination, the alarm user may further appeal for a hearing before the code enforcement board or special master, depending upon whether a notice of violation or citation was issued.

Sec. 54-37. Penalties.

(a) Each violation of this article shall be punishable by the following fines:

(1) The fine for violation of failure to meet qualifications or licensing in the definitions of an alarm business in sections 54-31, 54-32 and 54-33 shall be as follows:

a.	First violation	\$50.00
b.	Second violation	100.00
c.	Each additional violation	100.00

(2) Violation of section 54-34 shall be punishable by the following fines:

a.	Third <u>Fourth</u> false alarm in one calendar year	25.00
b.	Fourth <u>Fifth</u> false alarm in one calendar year	50.00
c.	Fifth <u>Sixth</u> false alarm in one calendar year	100.00

(b) An alarm user shall not be fined more than \$200.00 for false alarms that occur at the same premises in any 24-hour period.

Sec. 54-38. Enforcement.

(a) All fines imposed as a result of a violation of this article shall be collected in the following manner:

(1) If direct payment is made for any of the violations in section 54-37, a check or money order will be sent to the finance department. When the alarm user has neither paid nor requested an appeals hearing within 30

days, the citation shall be referred to the licensing section for collection upon license renewal.

(2) In matters of appeal before the city council, collection shall be handled by the city clerk.

<i>Section</i>	<i>Description of Violation</i>	<i>Civil Penalty</i>
54-31	Second and each additional occurrence of failure Of an alarm business to meet qualifications or licensing	\$100.00
54-32	Failure of an alarm user to register an alarm system	50.00
54-32	Second and each additional failure of alarm user to register an alarm system	100.00
54-33	Use of an alarm system without required or with prohibited equipment	50.00
54-33	Second and each additional occurrence of using an alarm system without required or with prohibited equipment	100.00
54-34	Third <u>Fourth</u> false alarm in one calendar year	50.00
54-34	Fourth <u>Fifth</u> false alarm in one calendar year	100.00
54-34	Fifth <u>Sixth</u> false alarm in one calendar year	200.00

(b) The alarm user shall have 30 days from the date of the citation of violation in which to pay the fine. Failure to pay such fine within the 30-day time limit shall render such fine to be debt due to the city, which shall be paid in order for the alarm user to renew his the user's occupational license.

Section 2: Repeal of Ordinances in Conflict.

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 3: Penalties.

Every person violating any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be punished by a civil penalty not to exceed \$500.00 within the discretion of the court or administrative tribunal having jurisdiction, except as provided in the civil penalties provided in this ordinance. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty described above, the City may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

Section 4: Inclusion in Code.

The provisions of this ordinance shall be included and incorporated in the Code of Ordinances of the City of Hialeah, as an addition or amendment thereto, and the sections of this ordinance shall be renumbered to conform to the uniform numbering system of the Code.

Section 5: Severability Clause.

If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

Section 6: Effective Date.

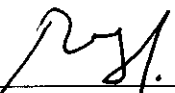
This ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.

PASSED and ADOPTED this 26th day of May, 2009.

THE FOREGOING ORDINANCE
OF THE CITY OF HIALEAH WAS
PUBLISHED IN ACCORDANCE
WITH THE PROVISIONS OF
FLORIDA STATUTE 166.041
PRIOR TO FINAL READING.

Attest:

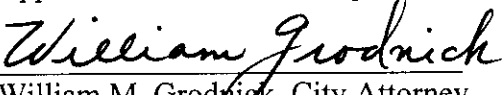
Approved on this 27 day of May, 2009.


Rafael E. Granado, City Clerk


Carlos Hernandez
Council President


Mayor Julio Rotaina

Approved as to form and legal sufficiency:


William M. Grodnick, City Attorney

~~Strikethrough~~ indicates deletion. Underline indicates addition.